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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,332	12/08/2003	Andrew J. Steckl	UOC / 173	2449
26875	7590	01/26/2006	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			MOONEY, MICHAEL P	
			ART UNIT	PAPER NUMBER
			2883	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,332

Applicant(s)

STECKL ET AL.

Examiner

Michael P. Mooney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/18/05 Response.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 2,8,13,19,20 and 24-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 21-23 and 32 is/are objected to.
- 8) ☒ Claim(s) 3-7,9-12 and 14-18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/4, 5/4, 12/4, 7/5
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Species A, Embodiment 2 in the reply filed on 10/18/05 is acknowledged. The traversal is on the ground(s) that no serious burden exists because Examiner will have to search the prior art for the same subject matter defining Species B when examining the claims of Species A.

This is not found persuasive because additional searching is required and is burdensome. The requirement for electrowetting medium in combination with the rest of the claim 1 elements changes the scope of the searching significantly, especially when considering the varying details of dependent claims which do not have the electrowetting feature.

Furthermore, the only claims containing the electrowetting medium feature required by elected Species A, Embodiment 2 are claims 21-23, and 32. Therefore, only claims 1, 21-23, and 32 will be examined in this Office action.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

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by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. (6819845).

Lee et al. teaches a lightwave coupling device comprising: a waveguide (fig. 19A) capable of propagating light of a first wavelength through internal reflection (fig. 19A); a photoluminescent medium (fig. 19B; col. 4 lines 52-64; col. 5 line 5 to col. 6 line 57) positioned proximate to said waveguide, said photoluminescent medium capable of being selectively optically coupled (col. 69 line 56 to col. 71 line 10) to said waveguide for receiving light of said first wavelength and emitting light of a second wavelength (col. 13 line 55 to col. 14 line 10) in response to receiving light of said first wavelength; and a coupling element operative for selectively optically coupling said photoluminescent medium with said waveguide to transfer light of said first wavelength from said optical waveguide to said photoluminescent medium (19B fig. 19B; col. 4 lines 52-64; col. 5 line 5 to col. 6 line 57; col. 69 line 56 to col. 71 line 10).

Thus claim 1 is met.

Allowable Subject Matter

Claims 21-23, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art, either alone or in combination, does not disclose or render obvious wherein said coupling element comprises: an electrowetting medium positioned between said waveguide and said photoluminescent medium; first and second electrodes; and a voltage source capable of applying an actuation voltage to said first and second electrodes effective to move said electrowetting medium between a first condition that permits transfer light of said first wavelength from said optical waveguide to said photoluminescent medium and a second condition in which light of said first wavelength remains confined in said waveguide in combination with the rest of claim 21.

It is noted that the claim 21 is allowable because the unique combination of each and every specific element stated in the claim.

Conclusion

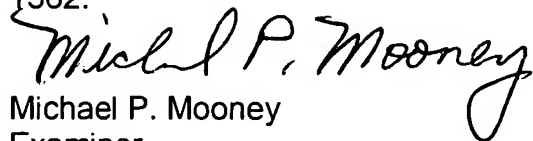
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Mooney whose telephone number is 571-272-2422. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

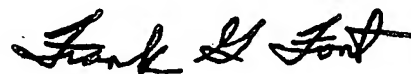
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-

1562.



Michael P. Mooney
Examiner
Art Unit 2883



Frank G. Font
Supervisory Patent Examiner
Art Unit 2883

FGF/mpm
1/9/06